

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DAVID E. MACK
Plaintiff,

vs

ACCOUNT DISCOVERY
SYSTEMS, LLC
Defendant.

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Case No. 4:16-cv-373-ALM-CAN

FILED

AUG 26 2016

Clerk, U.S. District Court
Texas Eastern

PLAINTIFF DAVID E. MACK'S MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE AMENDED PLEADING

Plaintiff requests leave of court to file an amended pleading, First Amended Complaint.

A. Introduction

1. Plaintiff is David E. Mack; Defendant is Account Discovery Systems, LLC.
2. Plaintiff sued Defendant for violations of the Telephone Consumer Protection Act (TCPA).
3. Defendant filed an Answer on June 27, 2016 [Doc. 3]
4. A scheduling order has been issued [Doc. 12], Rule 26(a)(1) Initial Disclosures have been served, a Motion to Strike Affirmative Defenses has been filed by Plaintiff [Doc. 7] and a Motion for Protective Order has also been filed. [Doc. 17]

B. Argument

5. Unless the opposing party can show prejudice, bad faith, or undue delay, a court should grant leave to file an amended pleading. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230 (1962). Leave to amend should be freely given when justice so requires. Fed. R. Civ. P. 15(a); *Walton v. Mental Health Ass'n*, 168 F.3d 661, 665 (3d Cir. 1999).

6. The court should allow the filing of Plaintiff's amended pleading because new evidence of additional violations by the Defendant has been obtained through discovery and should be brought forth.

7. Defendant will not be prejudiced by Plaintiff's amended pleading because the evidence of additional violations was provided by Defendant in its discovery responses.

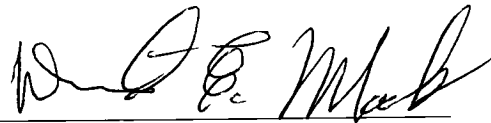
8. Plaintiff is filing his amended pleading along with this motion.

C. Conclusion

9. Plaintiff's First Amended Complaint brings forth additional violations identified through discovery and seeks to include those claims in this action. The amended pleading also further clarifies the injuries sustained by Plaintiff. For these reasons, Plaintiff asks the Court to grant leave to file the amended pleading.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant his motion for leave to file his amended pleading.

Respectfully Submitted,

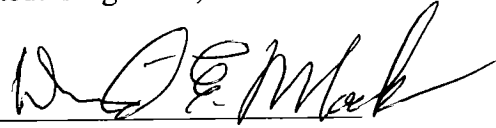
A handwritten signature in black ink, appearing to read "David E. Mack", written over a horizontal line.

David E. Mack
7720 McCallum Blvd. #2099
Dallas, Texas 75252
972-735-9642
mack2001@swbell.net

CERTIFICATE OF SERVICE

This is to certify a true and correct copy of the foregoing document was sent to the below named party by first class USPS mail.

Dated: August 26, 2016

A handwritten signature in black ink, appearing to read "D E Mack", written over a horizontal line.

David E Mack

Brendan H. Little
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Buffalo, NY 14202